



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/422,046	10/20/1999	STEPHEN J. BROWN	7553.00028 / 99-1000	5000
60683	7590	12/23/2008	EXAMINER	
HEALTH HERO NETWORK, INC. 2400 GENG ROAD, SUITE 200 PALO ALTO, CA 94303			MORGAN, ROBERT W	
			ART UNIT	PAPER NUMBER
			3626	
			MAIL DATE	DELIVERY MODE
			12/23/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/422,046	BROWN, STEPHEN J.	
	Examiner	Art Unit	
	ROBERT W. MORGAN	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 September 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 70,71,76,77,110-123,126-145,148-166,169-186 and 189 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 70,71,76,77,110-123,126-145,148-166,169-186 and 189 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/24/08</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 9/18/08. Claims 70, 71, 76, 77, 110-123, 126-145, 148-166, 169-186 and 189 are presented for examination.

Information Disclosure Statement

2. The information disclosure filed 9/24/08 has been entered and acknowledged.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 70-71, 77, 110, 112, 116, 117, 120, 123, 126, 127, 132-134, 137, 138, 139, 140, 142, 145, 148, 149, 151, 153, 155-156, 158, 161, 163, 164, 166, 169, 170, 173, 175-176, 178, 181, 183, 184, 186 and 189 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,803,625 to Fu et al. and U.S. Patent No. 4,838,275 to Lee in view of U.S. Patent No. 5,390,238 to Kirk et al.

As to claims 70, 117, 127, 138, 149, 150 and 170, Fu discloses a networked health-monitoring system (see Fig. 1), comprising:

(i) a plurality of remote patient sites corresponding to a plurality of patients (see Fig. 1, unit 60), each of the remote patient sites including
(a) at least one display (i.e. unit 68) (col. 5, lines 53-58);

- (b) a data management unit configured to facilitate collection of patient health related data (i.e., event table and CPU 64) (col. 10, lines 1-14 and lines 28-61);
- (c) at least one memory (i.e. unit 80) (see Fig. 2); and
- (d) stored program instructions for generating health-monitoring related information on the display (i.e. display unit 68 and software of the home unit) (col. 5, lines 56-57, col. 8, line 17 and col. 12, lines 1-24).
- (ii) at least one central server connectable for communication with the data management unit at the each of the remote patient sites (see Fig. 1)
- (b) each of the remote patient sites to establish a respective communication link with the central server and (c) in response to establishing the respective communication links (see: Fig. 1).
- Fu does not explicitly disclose
- (iii) at least one computer remotely located from the remote patient sites, remotely located from the central server and configured for signal communication with the central server, wherein the system is configured to allow a health care professional to cause information to be transmitted to at least one patient;
- display to that patient at least one message at least some of the information caused to be transmitted by the healthcare professional;
- (a) a healthcare professional to cause particular information related to a particular one of more of the patients to be transmitted from the computer to the central server;
- (c) the central server to send the particular information to the remote patient sites of the particular patients; and

(d) the patients to interactively control a presentation of the particular information;
(e) presentation of at least one message within the particular information on the displays of the particular patient in response to the interactive control.

Lee discloses at least one health care professional computer remotely located from and configured for signal communication with the central server to receive at least one report based on the patient health-related data collected at the remote patient sites (i.e. unit 118a) (see Fig. 1, col. 11, lines 54-56 and col. 13, lines 42-47).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include at least one health care professional computer remotely located from and configured for signal communication with the central server to receive at least one report based on the patient health-related data collected at the remote patient sites as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (Lee: col. 5, lines 15-38).

Fu and Lee do not explicitly disclose display to that patient at least one message at least some of the information caused to be transmitted by the healthcare professional;

(a) a healthcare professional to cause particular information related to a particular one of more of the patients to be transmitted from the computer to the central server;
(d) the patients to interactively control a presentation of the particular information; and
(e) presentation of at least one message within the particular information on the displays of the particular patient.

Kirk teaches a health support system including a remotely located computer facility including the at least one central server wherein hardware and software of the central server automatically communicates with the data management units and at least one health care professional computer (col. 3, lines 3-11, lines 20-42). In addition, Kirk teaches that the central server can report results of the analysis of patient (32, Fig. 3) status to a doctor (24, Fig. 2), care provider (20, Fig. 2) or local monitoring services (12, Fig. 1) (see: column 5, lines 40-47). Additionally, Kirk teaches that the patient (32, Fig. 3) provides information via remote modules (31, Fig. 3) to health support units (30, Fig. 3) and the patients may provide input directly to health support unit (30, Fig. 3) (reads on “(d) the patients to interactively control a presentation of the particular information”) (see: column 3, lines 43-51). Furthermore, Kirk teaches that the health support unit (30, Fig. 3) interacts with the local central server (38, Fig. 3) receive medication and program schedule updates (see: column 5, lines 22-27 and column 3, lines 3-11). The Examiner considers the medication and program schedule updates (messages) to be sent by the doctor or pharmacist computer to the local server and then to the patient.

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned limitation for the motivation of utilizing a health care support system which economically provides medication control, wellness checking and patient data accumulation and reporting capability (Kirk: col. 1, lines 53-60).

As to Claims 117, 138 and 171, Fu does not explicitly disclose the system of claim 34, wherein the system is configured to allow a health care professional to select which of a plurality of standardized reports is received.

However, Lee discloses wherein the system is configured to allow a health care professional to select which of a plurality of standardized reports is received (col. 13, lines 5-15). In addition, Lee teaches that a report is standardized (col. 17, lines 20-40). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the system configured to allow a health care professional to select which of a plurality of standardized reports is received as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As per claim 140 and 173, Fu does not explicitly disclose the claimed displaying (i) statistical information and (ii) trend information.

However, Lee discloses wherein the report includes displayed formatted statistical information as well as the tables indicating whether values are considered normal (N) or abnormal (A) (trends) (col. 13, lines 5-17). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the report includes displayed formatted statistical information as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As per claims 169 and 189, Fu does not explicitly disclose the claimed second user of the computer is a healthcare professional.

However, Lee discloses wherein the message is from the health care professional computer (col. 16, lines 40-43). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include messages from the health care professional computer

as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to claims 71, 77, 110, 112, 116, 120, 123, 126, 132-134, 137, 139, 142, 145, 148, 151, 153, 155-156, 158, 161, 163, 164, 166, 175-176, 178, 181, 183, 184 and 186, they are similar in scope to claims 70, 117, 127, 138, 140, 149, 150, 169, 170-171, 173 and 189 are rejected on the same basis.

5. Claims 76, 113, 136, 159 and 179 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, and Kirk as applied to claims 34 and 127 above, and further in view of Beckers, Pat. No. 5,019,974.

As to Claim 76, Fu, Lee and Kirk do not explicitly teach the claimed stored program instructions further enable displaying of one or more graphs generated from health related information.

However, Beckers discloses wherein the handheld device is capable of displaying health-monitoring related information graphically (see: column 11, lines 12-19 and Fig. 2).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the handheld device is of capable of displaying health-monitoring related information graphically as disclosed by Beckers within Fu, Lee, and Kirk for the motivation of providing a patient with an individually tailored program of treatment (see: Beckers: col. 1, lines 7-14).

As per claim 113, Fu, Lee and Kirk do not explicitly teach the claimed display is part of video game device.

Becker teaches a handheld device capable of displaying health-monitoring related information graphically (see: column 11, lines 12-19 and Fig. 2). The Examiner considers the display of the handheld device to be similar to video game device.

The obviousness of combining the teachings of Becker with the teachings of Fu, Lee and Kirk are discussed in the rejection of claim 76, and incorporated herein.

As to claims 136, 159 and 179, they are similar in scope to claim 76 are rejected on the same basis.

6. Claim 114 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, Kirk, and Becker as applied to claims 76 above, and further in view of Dessertine, Pat. No. 5,016,172.

As to claim 114, Fu, Lee, Kirk and Becker do not explicitly the claimed program instructions further enable a presentation and the patient data receiver to present on the display a graphic representation of at least a portion of the patient data.

However, Dessertine discloses wherein the stored programming instructions further enable the patient data receiver to present on the display a graphic representation of at least a portion of the patient data (i.e. patient display unit 5) (col. 3, lines 61-64 and col. 4, lines 29-46 and 52-60). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the stored programming instructions further enable the patient data receiver to present on the display a graphic representation of at least a portion of the patient data as disclosed by Dessertine within Fu, Lee, Kirk and Becker for the motivation of monitoring patient medication compliance and other patient characteristics remotely (see: Dessertine: col. 1, line 53 – col. 2, line 7).

7. Claim 185 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, and Kirk, as applied to claim 170 above, and further in view of Dessertine, Pat. No. 5,016,172.

As to claim 185, Fu, Lee and Kirk do not explicitly teach the claimed program instructions further enable a presentation and the patient data receiver to present on the display a graphic representation of at least a portion of the patient data.

However, Dessertine discloses wherein the stored programming instructions further enable the patient data receiver to present on the display a graphic representation of at least a portion of the patient data (i.e. patient display unit 5) (col. 3, lines 61-64 and col. 4, lines 29-46 and 52-60). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the stored programming instructions further enable the patient data receiver to present on the display a graphic representation of at least a portion of the patient data as disclosed by Dessertine within Fu, Lee and Kirk for the motivation of monitoring patient medication compliance and other patient characteristics remotely (see: Dessertine: col. 1, line 53 – col. 2, line 7).

8. Claims 111, 118, 121, 122, 130, 143, 144, 150, 152, 157, 162, 172, 177 and 182 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, and Kirk as applied to claims 70, 117, 127, 138, 149, 150 and 170 above, and further in view of Fujimoto, Pat. No. 5,339,821.

As to Claims 111, Fu, Lee, and Kirk teach a plurality of home units (60, Fig. 2) at a plurality of remote patient sites that include different modules (e.g. temperature, electrocardiogram, blood pressure, etc...) that monitor and collect patient health related data (see: Fu: column 5, lines 53 to column 6, lines 12 and Fig. 2-2b). The Examiner considers the

monitoring and collecting of different types of patient data to be the home unit which is in monitoring mode of a plurality of normal operational modes or different types of patient data.

Fu, Lee, and Kirk do not explicitly disclose the claimed system is configured to cause the presentation of at least one report on the display at a remote patient site and a menu allowing the patient to select different modes.

However, Fujimoto discloses wherein the system is configured to cause the presentation of at least one report on the display at a remote patient (col. 4, lines 48-56). In addition, Fujimoto teaches a medical terminal (1, Fig. 2) that includes operation buttons (15, 16, 17, Fig. 2) for entering a selection by the user (see: column 2, lines 56 to column 3, lines 3). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the system is configured to cause the presentation of at least one report on the display at a remote patient site as disclosed by Fujimoto within Fu, Lee and Kirk for the motivation of providing a medical system and apparatus which permits patients to check or measure the condition of a disease at home (col. 1, line 66 – col. 2, line 5).

As to claims 118, 121, 122, 130, 143, 144, 150, 152, 157, 162, 172, 177 and 182, they are similar in scope to claims 70, 117, 127, 138, 149, 150 and 170 and are rejected on the same basis.

9. Claim 165 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, Kirk, and Fujimoto as applied to claim 150 above, and further in view of Dessertine, Pat. No. 5,016,172.

As to claim 165, Fu, Lee, Kirk and Fujimoto do not explicitly the claimed program instructions further enable a presentation and the patient data receiver to present on the display a graphic representation of at least a portion of the patient data.

However, Dessertine discloses wherein the stored programming instructions further enable the patient data receiver to present on the display a graphic representation of at least a portion of the patient data (i.e. patient display unit 5) (col. 3, lines 61-64 and col. 4, lines 29-46 and 52-60). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the stored programming instructions further enable the patient data receiver to present on the display a graphic representation of at least a portion of the patient data as disclosed by Dessertine within Fu, Lee, Kirk and Fujimoto for the motivation of monitoring patient medication compliance and other patient characteristics remotely (see: Dessertine: col. 1, line 53 – col. 2, line 7).

10. Claims 119, 131, 141, 154 and 174 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee and Kirk as applied to claims 116 above, and further in view of Examiner's use of Official Notice.

As to Claim 119, Fu, Lee, and Kirk teach a plurality of home units (60, Fig. 2) at a plurality of remote patient sites that include different modules (e.g. temperature, electrocardiogram, blood pressure, etc...) that monitor and collect patient health related data (see: Fu: column 5, lines 53 to column 6, lines 12 and Fig. 2-2b). The Examiner considers the monitoring and collecting of different types of patient data to be the home unit which is in monitoring mode of a plurality of normal operational modes or different types of patient data.

Fu, Lee, and Kirk do not explicitly disclose the claimed computer receives the first report after the healthcare professional is identified as an authorized user by as an authorization code.

However, the Examiner takes official notice that it was well known in the computer arts to use personal identification numbers (pin) to authorize users to access systems, programs and stored data on computers. The motivation for using pin numbers was to grant access to data or the computer system to authorized users only, particularly sensitive data or information such as patient medical data. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the healthcare professional computer receives the report after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user within Fu, Lee and Kirk for the motivation stated above.

As to claims 131, 141, 154 and 174, they are similar in scope to claim 119 and are rejected on the same basis.

10. Claims 135, 160 and 180 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, and Kirk as applied to claims 127 above, and further in view of Examiner's use of Official Notice.

As to Claim 135, Fu, Lee, and Kirk do not explicitly disclose the system of claim 40, wherein the memory is a program cartridge.

However, the Examiner takes official notice that it was well known in the computer arts to use program cartridges to program handheld devices. The motivation was to provide a simple and inexpensive means for providing computer programs that are popular or in demand by a number of users. It would have been obvious to one of ordinary skill in the art at the time of

Applicant's invention to include wherein the memory is a program cartridge for the motivation stated above.

As to claims 160 and 180, they are similar in scope to claim 135 and are rejected on the same basis.

Response to Arguments

11. Applicant's arguments filed 9/18/08 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the responses dated 9/21/08.

Applicant's arguments with respect to claims 70, 71, 76, 77, 110-123, 126-145, 148-166, 169-186 and 189 have been considered but are moot in view of the new ground(s) of rejection. The Examiner has now corrected errors with regard to claims and headings to clarify the Non-Final rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (571) 272-6773. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, C. Luke Gilligan can be reached on (571) 272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert Morgan/
Primary Examiner, Art Unit 3626